

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
CITY OF SEATTLE

In the Matter of )

Replacement of Part 90 by Part 88 to )  
Revise the Private Land Mobile Radio )  
Services and Modify the Policies )  
Governing Them )

and )

Examination of Exclusivity and )  
Frequency Assignment Policies of )  
the Private Land Mobile Radio Services )

PR Docket No. 92-235

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**COMMENTS OF THE UNITED AND CENTRAL TELEPHONE COMPANIES**

The United and Central Telephone companies ("The Sprint LECs") hereby respectfully submit comments in response to the Commission's Further Notice of Proposed Rule Making ("FNPRM") in the above-referenced matter.<sup>1</sup>

**I. STATEMENT OF INTEREST**

The Sprint LECs provide local telephone service through local operating companies in 19 different states. These local operating companies hold a number of authorizations in the Telephone Maintenance Radio Service (TMRS), in both the 150 and 450 MHz bands. The use of telephone maintenance radio for intracompany communications helps facilitate the efficient and economic provision of local telephone service in our operating territories. Moreover, TMRS is critical in providing emergency

1. See, FCC 95-255, released June 23, 1995.

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restoration in the case of central office switch failures and copper or fiber cable damage resulting from storms or other causes, and facilitates the rapid restoration of telephone service.

**II. THE SPRINT LECS SUPPORT THE PROMOTION OF EFFICIENT, EFFECTIVE USE OF THE PRIVATE LAND MOBILE RADIO SPECTRUM BANDS BELOW 800 MHZ**

The Sprint LECS agree that measures are needed to alleviate congestion in the private land mobile radio (PLMR) bands that are allocated to TMRS and 19 other PLMR service groups and to address future communications needs in these bands. The Sprint LECS applaud the Commission's decision establishing both a narrowband channelling plan and a transition scheme that is tied to the authorization process for new equipment rather than requiring immediate replacement of existing base stations and mobile radios, which would impose a significant financial burden on the Sprint LECS and other PLMR users.<sup>2</sup>

We also recognize that consolidating the service groups will help foster the efficient allocation of spectrum and we concur in the Commission's decision to charge industry with the adoption of a consolidation plan.

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2. This is consistent with the Sprint LECS' argument in reply comments filed in response to the initial NPRM in PR Docket 92-235, that the Commission should adopt a schedule of migration to narrowband frequencies that "minimizes the immediate investment in new equipment while proposing a plan that will provide, over time, more spectrum for use by PLMR users." Reply Comments of the United and Central Telephone Companies, July 30, 1993, p. 2.

In the instant proceeding the Commission also proposes to introduce market forces as incentives to promote greater spectrum efficiency by PLMR users. Regarding these proposed market forces, the Sprint LECs endorse the positive aspects of the shared exclusivity concept, but have serious reservations about the introduction of others, especially competitive bidding and resale of excess capacity.

**A. Shared Exclusivity.** The Sprint LECs support the Commission's objective of increased spectrum efficiency that is embodied in its proposal to convert from a system of shared use channels to one in which licensees, by contractual agreement, establish areas of exclusive assignment within the composite service areas of all licensees party to the agreement. According to the Commission's proposal, to be eligible all licensees would have to agree to convert to narrowband technology by August 31, 2000. The NPRM seeks comment on the succeeding time frame during which the concurring co-channel licensees would be required to implement the new technology and whether some channels in the license area should be reserved for shared use.

While the Sprint LECs are generally supportive of the idea, we urge the Commission to exercise caution to ensure that exclusivity for some does not result in exclusion for others. In particular, because of the importance of TMRS in the provision of telephone service, especially in emergency situations, we urge the Commission to guarantee its availability to local telephone companies. We assert that not all users on a channel may be

willing or financially able to make a commitment within 5 years, if at all, to convert. For this reason, we urge that the Commission reserve some channels for shared use. In addition, even for the users who commit to the conversion, the costs could be substantial, especially for a company that holds multiple licenses and enters into multiple agreements. For this reason we believe the Commission should allow licensees some leeway in completing the conversion to narrowband equipment. We do not believe that any users should be required to convert before January 1, 2005, the deadline established for type accepted equipment designed to operate on narrowband channels of 6.25 kHz or less.

**B. Resale of Excess Capacity.** The Commission proposes that users who implement the exclusivity option (and thus increase spectrum efficient use) be allowed to lease the resulting excess capacity on their systems. The Commission further proposes that the services from which such capacity is leased be classified as commercial mobile radio services (CMRS).

The Sprint LECs respectfully oppose this proposal and suggest instead that the Commission offer licensees incentives to turn excess capacity back to the Commission for reassignment. The introduction of commercialism runs counter to the concept underlying PLMR licenses, and for that reason resale, as well as competitive bidding, discussed below, are inappropriate approaches to the assignment of these licenses.

The Commission has classified TMRS and other Industrial and Land Transportation Services within the PLMR services as private, rather than commercial mobile radio services, since they do not meet the three pronged test for CMRS (for-profit, interconnection and service available to the public). The order notes that if excess capacity is resold, licensees would be considered for-profit to the extent of any for-profit activity.<sup>3</sup> Sprint asserts that a for-profit designation cannot by itself confer CMRS status, if neither of the other two requirements is met. The Commission's proposal to classify as CMRS those services from which excess capacity is resold (and thus meet the for-profit designation only) is therefore inappropriate.

**C. Competitive Bidding.** As the Commission acknowledges, Congress has not authorized competitive bidding for PLMR services. There are many drawbacks to assigning PLMR licenses by competitive bidding, including substantial additional cost to the licensees and possible jeopardization of the availability of these licenses to those businesses that rely on them for their internal operations. For this reason the Sprint LECs urge the Commission not to pursue obtaining the authority to auction these services.

**D. User Fees.** As an alternative to or in conjunction with the above proposals, the Commission proposes a system of user

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3. See, In the Matter of Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services, GN Docket 93-252, Second Report and Order (Released March 7, 1994), paragraph 86.

fees for PLMRS licensees, which would vary by such factors as bandwidth, area of operation, and population coverage and density. The Commission asks for comment on the establishment of a fee structure based on the market prices of similarly situated spectrum bands, and suggests that IVDS and Narrowband PCS auction prices may provide "relevant valuations" to facilitate the establishment of user fee guidelines. As stated above, the potential costs involved in the conversion to narrowband technology will not be insignificant. In addition, these licensees already are subject to license renewal fees, filing fees and regulatory fees. For this reason, we are hesitant to support yet another fee. However, if the Commission decides that some sort of payment must be imposed, we believe a user fee would be preferable to auctions. The point must be made, though, that inasmuch as PLMR services are neither subscription-based nor in themselves revenue-producing, it would be entirely inappropriate for user fees to track the auction prices for IVDS or Narrowband PCS licenses. The Sprint LECs recommend against the imposition of any user fees whatever; however, if the Commission believes it is necessary to seek authorization for this source of revenue, and such authorization should be granted, we urge it to set fees that are affordable for the licensees.

### III. CONCLUSION

The Sprint LECs support the Commission's efforts to promote more efficient and effective use of the PLMR bands. We urge, however, that in introducing market incentives to

facilitate these ends, the Commission be mindful of the possible pitfalls of many of the proposed alternatives, particularly competitive bidding and resale of excess capacity. We recommend that whatever incentives the Commission adopts be consistent with the goal of continuing to allow licensees ready access to the critical services that are integral to the operation of their businesses.

Respectfully submitted,


THE UNITED AND CENTRAL  
TELEPHONE COMPANIES

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November 20, 1995

## **CERTIFICATE OF SERVICE**

I, Melinda L. Mills, hereby certify that I have on this 20th day of November, 1995, sent via U.S. First Class Mail, postage prepaid, or Hand Delivery, a copy of the foregoing "Comments of the United and Central Telephone Companies" in the Matter of Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them and Examination of Exclusivity and Frequency Assignment Policies of the Private Land Mobile Radio Services, PR Docket No. 92-235, filed this date with the Acting Secretary, Federal Communications Commission, to the persons on the attached service list.

  
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